The Law Council of Australia and the International Bar Association’s Human Rights Institute thank the Special Rapporteur for his report reiterating the duties of States to prevent and investigate prison-related deaths as part of their duty to protect the right to life.¹

More than 30 years after the Royal Commission into Aboriginal Deaths in Custody, Australia has not implemented a comprehensive national response to address the disproportionate incarceration of First Nations people.

While welcoming recent positive steps to improve transparency on deaths in custody,² we are concerned that the incarceration rate of First Nations adults is worsening nationally,³ and recommendations to address over-incarceration, including recommendations of First Nations peoples, have not been fully implemented.⁴

In this context, the Law Council continues to urge Australia to fully implement OPCAT⁵ by ensuring an effective, adequately resourced preventative mechanism is in place across all places of detention in Australia.

The Law Council urges all States to:

a. Aim to reduce incarceration through alternative justice approaches wherever appropriate, including justice reinvestment, restorative justice, and non-custodial sentencing; and

b. Ensure independent, thorough, transparent and timely investigations into all prison-related deaths, and implement measures to prevent future similar deaths.

Delivered by Mr Luke Murphy, President of the Law Council of Australia.

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¹ Human Rights Committee, General Comment No. 36, CCPR/C/GC/36 (3 September 2019) para 25.